

TO ALLOW THE ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK INDIAN RESERVATION TO ENTER INTO A LEASE OR OTHER TEMPORARY CONVEYANCE OF WATER RIGHTS RECOGNIZED UNDER THE FORT PECK-MONTANA COMPACT FOR THE PURPOSE OF MEETING THE WATER NEEDS OF THE DRY PRAIRIE RURAL WATER ASSOCIATION, INCORPORATED, AND FOR OTHER PURPOSES

APRIL 25, 2006.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 2978]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2978) to allow the Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2978 is to allow the Assiniboiné and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Fort Peck Reservation Rural Water System Act of 2000 (Public Law 106-382) authorized the construction of a rural water project in the northeastern corner of Montana. The project will serve the Fort Peck Indian Reservation and the non-Indian Dry Prairie Rural Water System, which would deliver water to parts of Valley, Daniels, Sheridan and Roosevelt Counties outside the Fort

Peck Reservation. The project will be able to serve a population of 31,000 and is currently scheduled to be completed by 2011.

The Dry Prairie Rural Water Authority was formed to manage the Dry Prairie rural water system. While the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation have sufficient water rights as determined under the Fort Peck-Montana Compact, the Authority does not. H.R. 2978 allows the Tribes and the Authority to enter into an agreement to allow for the conveyance of tribal water rights to the Authority for up to 100 years, thereby giving the Authority sufficient water to provide service through its new system.

The Montana State Water Compact Commission has already approved the conveyance of the water rights from the Tribes to the Authority. The proposed agreement would allocate approximately 2,800 acre-feet (one acre-foot is approximately 326,000 gallons) per year of water to the Authority. The Authority will not be required to compensate the Tribes for use of this water because the Tribes are not fully using their water rights and are not demanding payment.

COMMITTEE ACTION

H.R. 2978 was introduced on June 17, 2005, by Congressman Dennis Rehberg (R-MT). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On December 7, 2005, the Subcommittee held a hearing on the bill. On March 29, 2006, the Full Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged from further consideration of the bill by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1. Montana Indian Tribes; agreement with Dry Prairie Rural Water Association, Incorporated

This section allows the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, with the approval of the Secretary of the Interior, to enter into a water rights lease with the Dry Prairie Rural Water Association, Incorporated, in northeastern Montana. The lease may be approved by the Secretary without requiring monetary compensation to the Tribes. However, if compensation is involved, the section stipulates that the Secretary shall not be held liable for any claim or any cause of action relating to compensation for the lease. The lease shall not exceed 100 years.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2978—A bill to allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation to enter into a lease or other temporary conveyance of water rights recognized under the Fort Peck-Montana Compact for the purpose of meeting the water needs of the Dry Prairie Rural Water Association, Incorporated, and for other purposes

H.R. 2978 would allow the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation in Montana to enter into a lease or other temporary conveyance of water rights with the Dry Prairie Rural Water Association, Inc. Because the association's water system is interconnected with that of the tribes, such an agreement would be necessary for the association to meet its water needs in accordance with the Fort Peck Reservation Rural Water System Act of 2000. Based on information from the Bureau of Reclamation, CBO estimates that enacting H.R. 2978 would have no significant effect on the federal budget.

H.R. 2978 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. The bill would allow the Assiniboine and Sioux Tribes, with approval from the Bureau of Reclamation, to temporarily convey water rights to the Dry Prairie Rural Water Association. Any costs the tribes or association might incur to comply with the conditions of the conveyance would be incurred voluntarily.

On January 31, 2006, CBO transmitted a cost estimate for S. 1219, a bill to authorize certain tribes in the state of Montana to enter into a lease or other temporary conveyance of water rights to meet the water needs of the Dry Prairie Rural Water Association, Inc., as reported by the Senate Committee on Indian Affairs on January 18, 2006. The two pieces of legislation are similar, and the estimated costs are the same.

The CBO staff contact for this estimate is Mike Waters. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

